
IN THE UNITED STATES DISTRICT COURT
CENTRAL DIVISION, DISTRICT OF UTAH

GUY A. REAM, UEP/FLDS,	:	Civil No. 2:09-cv-00856
Plaintiffs,	:	REPORT & RECOMMENDATION
vs.	:	JUDGE CLARK WADDOUPS
DENISE LINDBERG, MARK SURTLIFF	:	MAGISTRATE JUDGE BROOKE C.
[sic], BRUCE WISAN and STATE OF		WELLS
UTAH,		
Defendants.		

Plaintiffs UEP, FLDS,¹ and Guy A. Ream acting *pro se* filed this action alleging violations of 42 U.S.C. § 1985. As stated in the complaint, Plaintiff Ream alleges that “the State Judiciary Denise P. Lindberg has permitted violation of all applicable Constitutional and Human Rights To obtain Fictitious [sic] Restatement of 1942 Trust Declairation [sic].”² Mr. Ream ultimately seeks a tax exempt status for the UEP Trust

¹An individual has a right to proceed in federal court either personally, *pro se*, or through representation by counsel. Jones v Niagara Frontier Transp. Authority, 722 F.2d 20, 22 (2d Cir. 1983)(citing, 28 U.S.C. §1654 (1976)). A corporation, however, “which is an artificial entity that can only act through agents, cannot proceed *pro se*.” Bell v. South Bay European Corp., 486 F. Supp 257, 259 (S.D.N.Y. 2007)(citing, Shapiro, Bernstein & Co. v. Continental Record Co., 386 F.2d 426, 427 (2d Cir. 1967)).

²Complaint, at pg. 3. Docket No. 3.

Estate, and \$10,000,000.00 in damages to compensate property loss, mental anguish and emotional distress.³ Because this court is barred from exercising jurisdiction over a case in which there may be ongoing state proceedings⁴ the court recommends that Mr. Ream's complaint be dismissed. Additionally, the Eleventh Amendment bars suit against any defendants acting in their official capacities.

Pursuant to 28 U.S.C. § 1915, the court granted Mr. Ream's motion to proceed without the payment of fees, *in forma pauperis*.⁵ The provisions of § 1915 state that the court "shall dismiss the case at any time if the court determines that— (B) the action or appeal— (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief."⁶ Based thereupon, the court concludes that Mr. Ream's Complaint⁷ fails to state a claim upon which relief may be granted, and it seeks relief against defendants who are immune from suit.

A review of Mr. Ream's complaint reveals that his allegations arise from state court proceedings that are currently ongoing.⁸ Mr. Ream clearly indicates that the

³Complaint, pg. 6-7. Docket No. 3.

⁴Younger v Harris, 401 U.S. 37 (1971).

⁵Docket No. 2.

⁶28 U.S.C. 1915(e)(2) (2006).

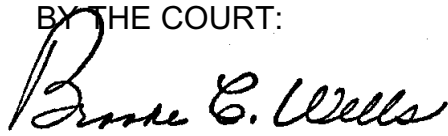
⁷Docket No. 3.

⁸Complaint, pg. 5-6. Docket No. 3.

issues surrounding his claim involve a “pending lawsuit”⁹ in which the state court has not yet issued a ruling. This court does not have jurisdiction over a case in which there is an ongoing state action.¹⁰ Additionally, state officials sued for damages in their official capacities are not considered “persons” within the meaning of section 1983 because they assume the identity of the government that employs them.¹¹ Thus, those causes of action brought against defendant Denise Lindberg and defendant Mark Shurtliff [sic] in their official capacities also fail because the Eleventh Amendment bars suit against such individuals in federal court.¹²

DATED this 10th day of November, 2009.

BY THE COURT:

A handwritten signature in black ink, appearing to read "Brooke C. Wells", written over a horizontal line.

Brooke C. Wells
United States Magistrate Judge

⁹In turn, even if the court somehow determined that the state action was in fact not pending, under the *Rooker-Feldman* doctrine, the federal court does not have the power to reverse or modify state court judgments nor can it hear an appeal from a judgment rendered by a state court. See, Rooker v. Fidelity Trust Co., 263 U.S. 413, 415-416 (1923); Bolden v. City of Topeka, 441 F.3d 1129, 1139 (10th Cir. 2006).

¹⁰Younger v Harris, 401 U.S. 37 (1971).

¹¹See, Will v. Michigan Dep't of State Police, 491 U.S. 58, 71 (1989).

¹²See, Kentucky v Graham, 473 U.S. 159, 167 n. 14 (1985); Alabama v Pugh, 438 U.S. 781, 782 (1978); Edelman v Jordan, 415 U.S. 651, 662-63 (1974).